

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TERRELL K. BROCK,
Plaintiff,

v.

CVS CORPORATION; LEONARDO
CORONADO; ASHLEY CAMACHO; CITY OF
WHITE PLAINS; JOSE LUIS FORMOSO; and
P.O. C. BROWNING,
Defendants.
-----X

ORDER

22 CV 4014 (VB)

Copies Mailed/Faxed
Chambers of Vincent L. Briccetti

Plaintiff, who is proceeding pro se and in forma pauperis, commenced this action on May 16, 2022. (Doc. #2).

By Order dated November 21, 2022, the Court set out additional, relevant procedural history of the case. (Doc. #37). Further, by that Order, the Court: (i) required the White Plains Law Department (“WPLD”) to comply with certain directives by December 5, 2022; (ii) ordered plaintiff to file a third amended complaint by December 21, 2022; (iii) stayed plaintiff’s deadline pursuant to Fed. R. Civ. P. 4(m) to serve Officer Formoso; and (iv) stayed all parties’ time to answer, move, or otherwise respond to the second amended complaint and any cross-claims.

On December 5, 2022, WPLD filed: (i) a letter summarizing WPLD’s efforts to comply with the Court’s Orders (Doc. #48); (ii) a letter stating WPLD will accept service for Police Officers Beall, Formoso, Schneider, and Vanderwalker at WPLD Corporation Counsel’s Office (Doc. #49), which also attached as exhibits the police records from plaintiff’s April 13, 2020 arrest (Doc. #49-1), and plaintiff’s April 3, 2020 arrest (Doc. #49-2); (iii) an affidavit of service stating WPLD served plaintiff with three letters from WPLD dated November 16, 2022, two letters from WPLD dated December 5, 2022, police records from plaintiff’s arrests dated April 3, 2020, and April 13, 2020, and WPLD’s notice of appearance (Doc. #50); (iv) a letter from WPLD

stating “upon review of the April 13, 2020 records this office has learned the names of 4 other police officers that were connected to [plaintiff’s] arrest on April 13, 2020. The City of White Plains will accept service for all White Plains Police Officers involved and specifically the following police officers named in the records: PO Levito; PO Dipaterio; PO Horgan; and PO Glynn” (Doc. #51); and (v) an affidavit of service stating WPLD served plaintiff with WPLD’s letter regarding the additional officers identified from his April 13, 2020, arrest records. (Doc. #52).

WPLD previously ignored the Court’s Order dated May 20, 2022 (Doc. #6), even though that Order was mailed to WPLD and WPLD accepted service of process on behalf of the City on July 18, 2022 (Doc. #18), and WPLD was served with the second amended complaint and various Orders issued subsequently in this case. (Docs. ##21, 26). While the Court concludes WPLD has now complied with the Court’s Orders, WPLD has submitted numerous confusing and haphazard filings, which wastes the Court’s time and resources.

Accordingly, it is HEREBY ORDERED:

1. Under the circumstances, plaintiff’s deadline to file **a third amended complaint is extended to January 23, 2023.**
2. In light of WPLD newly identifying additional officers involved in plaintiff’s arrests, **the third amended complaint shall list the full names of all defendants, including White Plains Police Officers Beall, Dipaterio, Glynn, Horgan, Levito, and Schneider.** Plaintiff shall utilize the third amended complaint form attached to this Order. **The third amended complaint will completely replace, not merely supplement, the existing second amended complaint. Therefore, plaintiff must include in the third amended complaint all information necessary for his claims.**

3. Because plaintiff is proceeding in forma pauperis, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Pursuant to the Court's Order dated November 21, 2022, once the Court receives and screens the third amended complaint, it will issue an appropriate order directing the Clerk of Court to issue summonses for the newly identified defendants and to deliver to the U.S. Marshals all materials necessary to effect service.

To be clear, plaintiff does not need to do anything to effect service on defendants.

4. Plaintiff's service deadline pursuant to Fed. R. Civ. P. 4(m) is STAYED pending further Court Order. **Once the Court receives the third amended complaint, it will set a service deadline pursuant to Fed. R. Civ. P. 4(m).**

5. The time for all parties to answer, move, or otherwise respond to the second amended complaint and any cross-claims remains STAYED pending further Court Order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: December 7, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

-against-

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

No. _____
(To be filled out by Clerk's Office)

**THIRD AMENDED
COMPLAINT**
(Prisoner)

Do you want a jury trial?
☐ Yes ☐ No

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a “*Bivens*” action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name	Middle Initial	Last Name
State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.		
Prisoner ID # (if you have previously been in another agency’s custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)		
Current Place of Detention		
Institutional Address		
County, City	State	Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

_____		_____	
Dated		Plaintiff's Signature	

First Name	Middle Initial	Last Name	

Prison Address			

County, City	State	Zip Code	

Date on which I am delivering this complaint to prison authorities for mailing: _____